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In re application of: Gatley et al.

Serial No.: 10/734,775

Examiner: Bertheaud

Filed: December 12, 2003

Group Art Unit: 3746

For: MOTOR COOLING AND  
EXHAUST DILUTING BLOWER  
HOUSING WITH HEAT SHIELD  
AND NOISE MUFFLER

REPLY TO EXAMINER'S ANSWER

Several new arguments are presented in the Response to Argument section of the Examiner's Answer mailed on January 3, 2008. These new arguments are addressed below.

With respect to the anticipation rejections of claims 1 and 8, the Examiner argues for the first time that the Morgan furnace could be attached to a separate heater and therefore discloses a heater blower housing that is attachable to a furnace as recited in the claims. The argument is based on hindsight of the present invention.

The Morgan reference does not identically disclose the ability of the furnace disclosed in the Morgan reference to be attachable to a separate heater as recited in the claims. This disclosure is only provided in the application specification. Therefore, the argument that the Morgan reference identically shows the subject matter recited in claims 1 and 8 because the

Morgan reference discloses a heater that is attachable to a separate heater is based on hindsight. The rejection should therefore be withdrawn and the claims allowed.

The Examiner also provided a first time explanation of the anticipation rejection of claims 2, 9, and 10. With regard to the Examiner's arguments on the rejections of claims 2, 9, and 10, it is again pointed out that the language of the claims recites the interior layer being positioned opposite the exhaust compartment opening that is attachable to a separate heater. The Morgan reference does not identically show any portion of the furnace disclosed in the reference that is attachable to a separate heater as claimed. The reference therefore does not identically show the subject matter of claims 2, 9, and 10.

The heater blower housing that is attachable to a separate heater describes a structural feature of the blower housing and not an intended use of the blower housing as contended in the Examiner's Answer. The claim language does not describe attaching the blower housing to a separate heater, but it describes the structural feature of the blower housing being attachable to a separate heater. Using the logic presented in the Examiner's Answer, and in the Final Rejection, patent protection for a heater blower housing that is attachable to a separate heater could not be obtained unless the separate heater is claimed in combination with the blower housing. Because the Morgan reference does not disclose a blower housing that is attachable to a separate heater, the reference does not anticipate claims 2, 9, and 10.

In the Examiner's Answer, a first time attempt is made to explain the anticipation rejection of claim 5. Claim 5 recites "a fan compartment opening in the heater blower housing communicating the fan compartment with the exhaust compartment, and the interior layer of the exhaust compartment layered wall extending from adjacent the exhaust compartment opening to adjacent the fan compartment opening." However, the explanation provided in the Answer makes little sense.

Figure 3 of the Morgan reference does not show and the Examiner's Answer does not identify an exhaust compartment having an exhaust compartment opening, a fan compartment having a fan compartment opening, and an interior layer of a layered wall extending from adjacent the exhaust compartment opening to adjacent the fan compartment opening as recited in claim 5. The Morgan reference does not identically show these features of the invention, and the Examiner's Answer fails to explain how the Morgan reference could be interpreted to show these features. Claim 5 is therefore allowable over the prior art.

The Examiner's Answer refers to claims 6, 7, 14, and 15, and for the first time contends that Figure 3 of the Morgan reference discloses that the interior wall 42 has a concave cross-section. This is incorrect. The interior wall 42 of the Morgan reference has a circular cross-section. The cross-section is not concave as claimed. For this additional reason, the Morgan reference fails to identically show the features of the invention recited in claims 6, 7, 14, and 15, and therefore these claims are allowable over the prior art.

For the reasons discussed above and for the reasons set forth in the Appeal Brief, it is respectfully requested that the rejection of claims 1-15 be reversed and the claims allowed.

Respectfully submitted,

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